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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,437	01/15/2002	Lawrence W. Hrubesh	IL-10413	6489
24951	7590	04/19/2005	EXAMINER	
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA LAWRENCE LIVERMORE NATIONAL LABORATORY PO BOX 808, L-703 LIVERMORE, CA 94551-0808			LISH, PETER J	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,437

Applicant(s)

HRUBESH, LAWRENCE W.

Examiner

Peter J Lish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 8 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 8, and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/25/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Droege et al. (US 5,945,084).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claim Rejections - 35 USC § 103

Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Droege et al. (US 5,945,084).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 1, 4, 8, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pekala et al. (US 5,932,185) in view of Kaschmitter et al (US 5,260,855).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Response to Arguments

Applicant's arguments filed 1/25/05 have been fully considered but they are not persuasive. The applicant relies upon arguments that the rejections of the previous office action do not yield a "monolithic" composite. While the term monolithic is supported in the specification, the attributes which the applicant attempts to bestow to the term are not supported by the original disclosure. The specification states that a monolithic material without cracks is formed due to pyrolysis. This is in accordance with the definition of monolithic in the dictionary, which defines monolithic as a rigid, uniform whole. The applicant's new arguments which call for conductance and specific pore sizes being required in a monolithic material are not supported by the original disclosure and represent new matter.

Furthermore, if supercritical drying is essential to the formation of a monolithic material, as presently argued, it is unclear as to how the applicants obtained monolithic materials while using evaporative drying, as is supported by the specification.

At any rate, neither supercritical drying nor a specific pore size are claimed by the applicant and it remains that no difference is seen between the processes applied in the rejections of the previous office action and the instantly claimed process.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 571-272-1354. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

PL


STANLEY S. SILVERMAN
SUPERVISORY PATENT EXAMINER
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